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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,307	09/10/2003	Aman Safaei	W1200-00042	5380

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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

EXAMINER	
LOFTIS, JOHNNA RONEE	

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/660,307	SAFAEI ET AL.	
	Examiner	Art Unit	
	Johnna R. Loftis	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 March 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17,19-35 and 37-40* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17,19-35 and 37-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. In response to Applicant's Pre-Appeal Brief Request, PROSECUTION IS HEREBY REOPENED. The amendments filed after final are hereby entered and the request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

The following is a non-final office action upon examination of application number 10/660,307. Claims 1-17, 19-35 and 37-40 are pending and have been examined on the merits discussed below.

Response to Arguments

2. Applicant's arguments with respect to claims 1-17, 19-35 and 37-40 have been considered but are moot in view of the new ground(s) of rejection. Applicant argues that the Baker reference, or more broadly, MapPoint, does not explicitly teach assigning unique identifiers indicating types of lottery games sold by the respective lottery retailers. Further Applicant argues that the Baker reference, or more broadly, MapPoint, does not teach identifying locations of at least one existing non-lottery retailer. New rejections have been written to more clearly address these limitations.

With reference to Applicant's argument that Baker (MapPoint) does not explicitly teach assigning unique identifiers indicating types of lottery games sold by the respective lottery retailers, Examiner points out that Applicant has admitted in the specification on pages 6 and 7 of the specification, "sales data are identified on a map display using the MapPoint software package according to user defined criteria, more specifically using the 'Data Mapping Wizard'

feature of the software package" this is evidence that MapPoint inherently includes the claimed feature of assigning unique identifiers to the data. Further another MapPoint reference, by Farris, has been included teaching the Data Mapping Wizard.

With respect to Applicant's argument that Baker (MapPoint) does not teach identifying locations of at least one existing non-lottery retailer, Examiner again turns to Baker and the newly introduced Farris reference, considering applicant's own admissions in the specification. MapPoint enables a user to create data spreadsheets with any business data deemed important. In the Baker example of Manufacturers and Traders Trust (MTT), the financial institution, using demographic data, can determine what banking products to develop for a specific market group, i.e., if the financial institution is in an area where most customers are approaching retirement age, the institution would benefit by introducing new retirement plans and catch-up plans to assist their customers in planning for retirement. The mapping software helps the banks decide to introduce new products into their line based on demographic data, so inherently if the decision is being made to introduce a new product into the bank, the mapping software is displaying a bank(s) that does not already carry the product. This same procedure could be replicated with any other type of product sold (or not sold) on the market, for instance, looking at a non-lottery retailer and deciding to introduce lottery gaming. The idea is that a company can look at it's locations along with products sold at those locations and determine whether to introduce a new product or service to better meet demands of the area demographic.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-17, 19-35 and 37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Microsoft's MapPoint, as disclosed in the following three articles.

Baker, Kim et al. "Divide and Conquer". September, 1999.

"Microsoft MapPoint 2000 Delivers New Mapping and Analysis Program". From Newswire, November 1998

Farris, Dale. Review entitled "MapPoint 2002". April 2002

Hereinafter collaboratively referred to as MapPoint.

As per claim 1 (currently amended), MapPoint teaches obtaining location information for a plurality of retailers with a processor (Baker, page 1 – geographic information systems are used to visualize business data on maps); assigning unique identifiers to a plurality of retailers, the unique identifiers indicating types of product sold by respective retailers from the plurality of retailers; and identifying on a map display displayed by a user terminal using the unique identifiers respective locations of retailers from the plurality of retailers (Baker, page 1 – the maps incorporate symbols, three-dimensional representations, colors and charts to display business data; page 3 – MapPoint identifies sales based on geographic location of the retailer using multicolored maps and grids that show locations where sales are concentrated; Farris, page 1 and 2 – the data wizards allow the user to specify which data to map along with selection of

formatting options such as color; in addition, by applicant's own admission on pages 6 and 7 of the specification, "sales data are identified on a map display using the MapPoint software package according to user defined criteria, more specifically using the 'Data Mapping Wizard' feature of the software package" this is evidence that MapPoint inherently includes the claimed feature of assigning unique identifiers to the data); and identifying on said map display an indication of a location of at least one existing non-lottery retailer (Baker page 4 - example of Manufacturers and Traders Trust (MTT), the financial institution, using demographic data, can determine what banking products to develop for a specific market group, i.e., if the financial institution is in an area where most customers are approaching retirement age, the institution would benefit by introducing new retirement plans and catch-up plans to assist their customers in planning for retirement. The mapping software helps the banks decide to introduce new products into their line based on demographic data, so inherently if the decision is being made to introduce a new product into the bank, the mapping software is displaying a bank(s) that does not already carry the product. This same procedure could be replicated with any other type of product sold (or not sold) on the market. The idea is that a company can look at it's locations along with products sold at those locations and determine whether to introduce a new product or service to better meet demands of the area demographic. See motivation on pages 7-8.

As per claim 2, MapPoint teaches identifying on the map display sales data for at least one identified retailer (Baker, page 3 – MapPoint identifies sales based on geographic location of the retailer). See motivation on pages 7-8.

As per claim 3, MapPoint teaches sales data represent total sales for a selected time period of the types of product sold by the at least one identified retailer (Newswire, page 1 –

users can identify business trends using their own sales data – trends of sales data inherently includes sales over a time period). See motivation on pages 7-8.

As per claim 4 (currently amended), MapPoint teaches identifying on the map display an indication of a location of at least one existing retailer not selling the product (Baker, page 3, system is used to identify locations where sales are concentrated, as well as where retailers need to improve, inherently the system is identifying locations of retailers where the product is not being sold). See motivation on pages 7-8.

As per claim 5 (currently amended), MapPoint teaches after identifying on the map display an indication of a location of at least one retailer not selling the product, utilizing information discerned from the map display in making a retailer decision, said retailer decision comprising considering establishing at least one retailer not selling the product, as a retailer selling the product (Baker, page 4, the system is used to determine where to introduce new locations for products and retailers). See motivation on pages 7-8.

As per claim 6, MapPoint teaches identifying on the map display demographic data for a geographic region shown on the map display (Baker, page 3 bottom – page 4 – demographic data is displayed). See motivation on pages 7-8.

As per claim 7, MapPoint teaches after identifying on the map display demographic data for a geographic region shown on the map display, utilizing information discerned from the map display in making a marketing decision (Baker, page 4, displays demographic data showing concentrations of customers meeting age and income criteria used to develop new products and promotions for the specific market groups in the area). See motivation on pages 7-8.

As per claim 8, MapPoint teaches demographic data include population data (Baker, page 3, mapping software shows ethnicity data for specific areas – concentrations of high ethnic population leads to targeting specific products to those groups). See motivation on pages 7-8.

As per claim 9, MapPoint teaches demographic data include population income data (Baker, page 4, demographic data includes income criteria). See motivation on pages 7-8.

As per claim 10, MapPoint teaches identifying on the map display a street address for at least on identified retailer (Baker, page 3, mapping software shows sales penetration by specific street). See motivation on pages 7-8.

As per claim 11, MapPoint teaches automatically generating travel data representing a trip to at least on identified retailer (Baker, page 3, mapping program used to direct vehicles along the fastest routes to the retailers). See motivation on pages 7-8.

As per claim 12, MapPoint teaches travel data represent a travel route to the at least one identified retailer, travel distance, travel time, gas usage, overtime expenses or a combination thereof (Baker, page 3, mapping program used to direct vehicles along the fastest routes, this inherently includes travel time and distance). See motivation on pages 7-8.

As per claim 13, MapPoint teaches travel data represents a travel route to the at least one identified retailer, the method further comprising the steps of utilizing the travel route in determining a travel to the one or more retailers (Baker, page 3, mapping program used to direct vehicles along the fastest routes, this inherently includes travel time and distance). See motivation on pages 7-8.

As per claims 1-13, including data regarding lottery retailers, MapPoint does not explicitly teach the system being used for analysis of lottery retailers; however, these differences

are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP ∋ 2106.*

Further, it would have been obvious to one of ordinary skill in the art to us MapPoint to analyze lottery retailer data since MapPoint is widely used to analyze business data along with demographic data to make business decisions such as determining the best places to set up new establishments and where to introduce or discontinue products. By applying the well known advantages of MapPoint to a lottery retailer, the lottery establishment will be able to determine which lottery games to introduce or discontinue which will lead to a more successful, profitable lottery business.

As per claim 14, MapPoint teaches obtaining location information for a plurality of retailers and a plurality of non-retailers with a processor (Baker, page 1 – geographic information systems are used to visualize business data on maps; Baker page 4 - example of Manufacturers and Traders Trust (MTT), the financial institution, using demographic data, can determine what banking products to develop for a specific market group, i.e., if the financial institution is in an area where most customers are approaching retirement age, the institution would benefit by introducing new retirement plans and catch-up plans to assist their customers in planning for retirement. The mapping software helps the banks decide to introduce new products into their

line based on demographic data, so inherently if the decision is being made to introduce a new product into the bank, the mapping software is displaying a bank(s) that does not already carry the product. This same procedure could be replicated with any other type of product sold (or not sold) on the market. The idea is that a company can look at it's locations along with products sold at those locations and determine whether to introduce a new product or service to better meet demands of the area demographic); identifying on a map display displayed by a user terminal a location of at least one lottery retailer from a plurality of lottery retailers; and identifying on the map display lottery sales data respective to the at least one lottery retailer representative of lottery sales by the at least one lottery retailer for a selected period of time. (Baker, page 3 – MapPoint identifies sales based on geographic location of the retailer using multicolored maps and grids that show locations where sales are concentrated; Newswire, page 1 – users can identify business trends using their own sales data – trends of sales data inherently includes sales over a time period; Farris, page 1 and 2 – the data wizards allow the user to specify which data to map along with selection of formatting options such as color; in addition, by applicant's own admission on pages 6 and 7 of the specification, "sales data are identified on a map display using the MapPoint software package according to user defined criteria, more specifically using the 'Data Mapping Wizard' feature of the software package" this is evidence that MapPoint inherently includes the claimed feature of assigning unique identifiers to the data). See motivation page 11.

As per claim 15, MapPoint teaches the sales data represent sales according to product type (Baker, page 3, system used to track sales penetration by location). See motivation page 11.

As per claim 16, MapPoint teaches the sales data represent total sales for the selected time period of the product sold by the respective retailers (Newswire, page 1 – users can identify business trends using their own sales data – trends of sales data inherently includes sales over a time period). See motivation page 11.

As per claim 17, MapPoint teaches utilizing information discerned from the map display in making a retailer decision (Baker, page 2 bottom – page 3 top – information is used to make business decisions). See motivation page 11.

Claim 18 canceled.

As per claim 19, MapPoint teaches identifying on the map display demographic data for a geographic region shown on the map display (Baker, page 3 bottom – page 4 – demographic data is displayed). See motivation page 11.

As per claim 20, MapPoint teaches the demographic data includes population (Baker, page 3, mapping software shows ethnicity data for specific areas – concentrations of high ethnic population leads to targeting specific products to those groups). See motivation page 11.

As per claim 21, MapPoint teaches demographic data include population income data (Baker, page 4, demographic data includes income criteria). See motivation page 11.

As per claim 22, MapPoint teaches utilizing demographic data information discerned from the map display in making a marketing decision (Baker, page 4, displays demographic data showing concentrations of customers meeting age and income criteria used to develop new products and promotions for the specific market groups in the area). See motivation page 11.

As per claim 23, MapPoint teaches identifying on the map display a street address for at least on identified retailer (Baker, page 3, mapping software shows sales penetration by specific street). See motivation page 11.

As per claims 14-23, including data regarding lottery retailers, MapPoint does not explicitly teach the system being used for analysis of lottery retailers; however, these differences are only found in the non-functional descriptive material and are not functionally involved in the steps recited nor do they alter the recited structural elements. The recited method steps would be performed the same regardless of the specific data. Further, the structural elements remain the same regardless of the specific data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994); MPEP ∋ 2106.*

Further, it would have been obvious to one of ordinary skill in the art to us MapPoint to analyze lottery retailer data since MapPoint is widely used to analyze business data along with demographic data to make business decisions such as determining the best places to set up new establishments and where to introduce or discontinue products. By applying the well known advantages of MapPoint to a lottery retailer, the lottery establishment will be able to determine which lottery games to introduce or discontinue which will lead to a more successful, profitable lottery business.

Claims 24-26 and 28-32 are the computer implemented system for performing the steps of claims 1-12. Since the MapPoint system is computer implemented, the rejection as applied to claims 1-12 also applies to claims 24-26 and 28-32.

Claims 33-35 and 37-40 are the computer implemented system for performing the steps of claims 14-17 and 19-23. Since the MapPoint system is computer implemented, the rejection as applied to claims 14-17 and 19-23 also applies to claims 33-35 and 37-40.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wittmann, Art. Location, location.

Kay, Russell. Linux lives, Microsoft maps.

Location-based Information Can Be Turned into Business Insight with Microsoft Mappoint 2002.

Patz, Joel T. You Are Here... and Your Clients Are There.

Compton, Jason. Push Your Plans Through.

MapPoint 2002 Here Comes Microsoft!

Microsoft: MapPoint 2002 Opens Up a World of Possibilities.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johnna R. Loftis whose telephone number is 571-272-6736. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JL
6/23/06

Romain Jeanty
Primary Examiner
Art Unit 3623